A Matter of Tax

Autumn 2020

Welcome

After a career in tax spanning 40 successful years, September marks the retirement of one of Rickard Luckin's longest-serving Tax Directors, and the editor of our A Matter of Tax bulletin, Peter Warren.

Having joined what was then Bird Luckin in 1989 from HMRC, Peter became a director in 1994. In addition to advising clients himself, as head of tax planning and consulting, Peter helped build the firm's tax team to what it is today, increasing its consulting capability and expertise whilst developing a team that maintains the high standard of work and personal approach set by Peter that so many of our clients have become accustomed to.

Reflecting on his career, Peter says "It is and always has been a people-focused business and I have been extremely fortunate to work with so many wonderful clients, colleagues and other professionals over the years. I have enjoyed my career enormously and I am looking forward to the chance to now enjoy my leisure time. Much of it will, I hope, involve spending more time with my family whilst also adding many more seasons to the 52 I`ve already spent supporting Chelsea, improving my golf and, enjoying yet more country walks and travelling."

Whilst Peter will be missed by colleagues and clients alike, he leaves Rickard Luckin at a time when its tax team has never been stronger. The firm has been further adding strength and depth to its tax capability over the last 18 months – including last year's recruitment of Chelmsford-based Tax Associate, Neil Spicer, who brings over 25 years' experience in tax and who will be taking over as editor of A Matter of Tax going forward.

We would like to thank Peter for his contribution to the business over 3 decades. He has been instrumental in building the firm's tax capability over this time, and more recently with the firm's Head of Tax & Financial Planning, Jamie Nice, to ensure the high levels of service, expert advice and knowledge remain at the heart of the next generation of our tax team. We wish Peter a long, happy and healthy retirement.

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Is it a car or a van?

Whether your business buys a car or a van can make a big difference to the tax relief given on the cost of the vehicle and to the tax payable by the driver who uses it for private journeys.

In both cases the tax position is more favourable for a van: in legal terms - 'a vehicle of a construction primarily suited for the conveyance of goods or burden'.

Some combi-vans, which have a row of seats behind the driver, are equally suited to carrying people (on the extra seats) and goods. In such cases the Court of Appeal has recently decided that the vehicle must be treated as a car for employee benefits purposes.

Where your business already owns a combi-van you should review the P11D returns submitted for the driver of that vehicle for the tax years 2018-19 onwards. We can help you with that.

As the definition of a car for capital allowance claims is almost identical as for employment taxes, you also need to review your capital allowance claims for any combi-vans.

Fortunately the definition of a van for VAT purposes is rather different and generally depends on whether the vehicle can carry a payload of at least one tonne. You can reclaim the VAT charged on acquiring a van but not on the purchase of cars, with the exception of taxis.

If you are thinking of buying a new van for the business check the tax position with us first, as just because it looks like a van does not mean it is not a car!

Redundancy pay

Making staff redundant is hard for any small business as employees can become as close as family.

Any employees you let go are entitled to a written statement setting out the amount of their redundancy payment and how it was calculated so it is important to get this right.

Start by looking at the employees' employment contracts as these may set out a formula for calculating redundancy pay and how much you have agreed to pay in lieu of notice and for holiday accrued. You also need to know the employees' dates of birth and exactly when they started working for your business.

As a minimum, you are required to pay statutory redundancy to employees with at least two years' service, including time spent on furlough.

The calculation is based on an employee's average weekly pay, capped at £538. This is normally calculated from the pay received in the 12 weeks ending on the day before you issue the redundancy notice. However you are required to use the employee's normal pay before it was reduced by 80% for furlough purposes.

The redundancy pay is calculated as:

- one and a half weeks' pay for each full year of employment after the employee's 41st birthday; plus
- one week's pay for each full year of employment after the employee's 22nd birthday; plus
- half a week's pay for each full year of employment up to the employee's 22nd birthday.

Service beyond 20 years is ignored so the maximum amount of statutory redundancy payable to a long-serving employee is £16,140.

All statutory redundancy pay is free of tax and NIC but holiday pay and contractual notice periods are taxed like normal pay.

Corporate losses

If your company has made a loss in the current year you will want to report that loss to HMRC as soon as possible so that it can be set against earlier profits and generate a refund of corporation tax paid for that earlier year.

To qualify for this relief the current year loss must arise from the same trade or activities as the earlier profitable activities.

If your business has made a slight change to the goods or services it provides, such as selling takeaway meals instead of restaurant service, HMRC will consider this to be a continuation of the same trade. Where your business switched to something completely different, such as from running a restaurant to buying and selling protective equipment, HMRC will consider this is to be a new trade and the current losses cannot be carried back to set against the old trade.

Generally you can only submit a loss claim once the current accounting period has ended and the profit or loss for that period has been realised. However HMRC will accept draft accounts for the completed current period as evidence that a loss is available to carry back to the previous period.

HMRC may also be prepared to make a tax repayment from the earlier period before the current period's tax return and loss claim are complete. This will only happen in exceptional circumstances where the claim can be supported by management accounts and other public statements.

Second SEISS grant

Applications for the second self-employed income support scheme (SEISS) grant opened on 17 August.

If you are self-employed and your business has been adversely affected by the COVID-19 pandemic since 14 July 2020 you can apply for the grant as long as you meet the following criteria:

- your self-employed profits make up at least half of your average annual income;
- you started your business before 6 April 2019;
- you submitted your 2018-19 tax return before 23 April 2020; and
- your annual self-employed profits for 2016-17 to 2018-19 were no more than £50,000.

The grant will be paid at the rate of 70% of your average annual profits for 2016-17 to 2018-19, capped at £6,570 for a three-month period.

If you missed applying for the first SEISS grant between 13 May and 13 July 2020 you can still apply for the second grant. Unfortunately we cannot do this on your behalf; you need to go to the gov.uk website and search for 'claim SEISS'. You will need your:

- national insurance number;
- self assessment UTR number;
- government gateway ID and password (this can be applied for at stage 1 of the grant application); and
- bank account number and sort code for the account you would like the grant paid into.

This will be the final SEISS grant and applications will close on 19 October 2020.

Tax reduction when buying homes

Buying or selling a home is always stressful but the process has been made a little easier for buyers as the starting point at which stamp duty becomes payable has been temporarily raised.

Purchasers in England and Northern Ireland pay stamp duty land tax (SDLT) which currently only applies to purchases over £500,000. This could save you £15,000 on a residential property costing £500,000. The tax reduction also applies when buying a second home, on which an additional 3% SDLT is paid on the entire purchase consideration.

The purchase must complete on or before 31 March 2021 to qualify for this tax reduction, after which the threshold is expected to revert to £125,000.

Buyers in Scotland pay land and buildings transaction tax (LBTT) and the Scottish Government has raised the LBTT threshold from £145,000 to £250,000 until 31 March 2021. You could save £2,100 on a property costing over £250,000 in Scotland and this saving also applies when buying a second home in Scotland or purchasing through a company.

The Welsh Government applies land transaction tax (LTT) to purchases of land and buildings and the threshold for LTT has also been increased to £250,000 until 31 March 2021.

However if you are planning to buy a second home in Wales the tax saving will not apply; you will have to pay the normal rates plus a 3% supplement on the entire purchase price.

Job retention bonus

To encourage employers to keep as many employees on the payroll as possible into 2021 the Government has promised to pay a job retention bonus to employers of £1,000 per employee.

We do not know the full details of this scheme yet but to qualify for the bonus the employee must:

- have been on furlough and included in a coronavirus job retention scheme (CJRS) claim by the employer;
- have been continuously employed by the employer from the last furlough period until at least 31 January 2021;
- receive a salary of at least £1,560 for the period 1 November 2020 to 31 January 2021; and
- not, on 31 January 2021, be serving a contractual or statutory notice period to cease their employment.

The employer's RTI records must be up to date to cover all periods up to and including 31 January 2021.

All employees potentially qualify for the bonus, including directors and agency workers, if they meet the criteria above. However more conditions may be announced, particularly to prevent fraud.

The bonus will be taxable income for the employer and will not have to be passed on to the employee.

Report your sale in 30 days

A new online system for paying and declaring CGT within 30 days of completion for sales of residential property was introduced from 6 April 2020. CGT online applies to all sales of UK homes where exchange and completion occurred after 5 April 2020. Sellers who are not tax-resident in the UK must report all UK property sales within 30 days.

There are two broad exceptions to this 30-day rule:

- the deal is loss-making; or
- the gain is covered by your annual exemption (£12,300 for 2020-21).

Otherwise if the CGT is not reported and paid within 30 days of completion you will receive automatic late-filing penalties from £100 up to £1,300 as the delay lengthens.

HMRC did not apply a penalty for sales completed before 1 July 2020 which were reported by 31 July 2020. However transactions completed on or after 1 July 2020 must be reported within 30 days through your online 'CGT on UK property account'.

We can do this report for you but you need to set up the account using your government gateway ID and passwords. You will then have to authorise us to report transactions through the account.

Your conveyancing solicitor is very unlikely to deal with the CGT reporting so please tell us as soon as you agree to sell a property to give us time to calculate the gain before the 30-day deadline.

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